

# **EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

NICHOLAS BERGERON and NICK )  
QUATTROCIOCCHI, on behalf )  
of themselves and on )  
behalf of all others )  
similarly situated, )  
 )  
Plaintiffs, )  
 )  
V. ) Lead Case  
 )  
ROCHESTER INSTITUTE OF ) NO.: 6:20-cv-06283  
TECHNOLOGY, )  
 )  
Defendant. )

ZOOM AND VIDEOTAPED DEPOSITION OF

CHARLES D. COWAN, Ph.D.

JULY 20, 2022

VOLUME 1

ZOOM AND VIDEOTAPED DEPOSITION OF  
CHARLES D. COWAN, PH.D., produced as a witness at the  
instance of the DEFENDANT, and duly sworn, was taken in  
the above-styled and numbered cause on July 20, 2022,  
from 9:07 a.m. to 3:06 p.m., via Zoom before Wendy  
Schreiber, CSR No. 9383, in and for the State of Texas,  
reported by machine shorthand, at the address 205 South  
Gulf Drive, Santa Rosa Beach, Florida, 32459, pursuant  
to the Federal Rules of Civil Procedure and the  
provisions stated on the record or attached hereto.  
Job No. 850422

1           A. We didn't really require a whole lot. We  
2       required information about the named plaintiffs so that  
3       we could do a calculation specific to them. And with  
4       respect to the information about tuitions, I believe we  
5       obtained that information ourselves through just  
6       research. I believe that's all we used. Oh, there was  
7       some information we obtained from the Department of  
8       Education as you'll see in the materials relied on but  
9       we obtained that information, too. So the only thing we  
10      really needed was a copy of the Complaint and the  
11      specifics for the two named plaintiffs.

12          Q. And to clarify, did -- did you ask the  
13      plaintiffs for any other information aside from the  
14      items that you've just gone through?

15          A. Not that I recall.

16          Q. Did the plaintiffs -- or were you offered any  
17      other documents or information for your analysis?

18          A. Not that I remember.

19          Q. And when you -- sorry, just going back for a  
20      second, you mentioned that your team gathered  
21      information about tuition and fees from  
22      publicly-available sources. Are you referring to first  
23      the published tuition and fees prices set by the -- by  
24      RIT?

25          A. Yes.

1 Q. Did you receive all of the information that you  
2 asked the plaintiffs for?

3 A. I received information for Mr. -- and I  
4 apologize for mispronouncing his name -- Quattrociochi.  
5 I did not for Mr. Bergeron.

6 Q. Was there -- were you given an explanation as  
7 to why you did not get information about Mr. Bergeron?

8 A. No. Well, I mean, I asked if they had the  
9 information. They said they hadn't received it and that  
10 was the only explanation I got. I didn't delve further.

11 Q. Did you make -- did you ask plaintiffs whether  
12 they could get the information that you needed about  
13 Mr. Bergeron?

14 A. Well, the way the conversation went I  
15 understood that they were in the process of obtaining  
16 information. I didn't ask whether they could or not.  
17 My impression was simply that they were in the process.

18 Q. Approximately -- and did you ever do any  
19 follow-up with the plaintiffs about whether they got the  
20 information or were able to provide it to you about  
21 Mr. Bergeron?

22 A. Well, this is -- this activity was performed in  
23 about a one-to-two-week-time period so, no. After the  
24 first week we had pretty much completed our report.

25 Q. And approximately when did -- when were the two

1 weeks when you worked on the report?

2 A. 4/13 -- April 13th through probably April 27th.

3 Q. And that's of 2022?

4 A. Yes, ma'am. I'm sorry.

5 Q. Was there any other information that you asked  
6 the plaintiff for which was not provided to you?

7 A. I believe you asked me this earlier and I --  
8 the answer was no.

9 Q. Apart from the information about RIT's  
10 published tuition and fees prices and the information  
11 from I believe it's the Department of Education's  
12 National Center for Education Statistics that you  
13 referenced, was there any other publicly-available  
14 information that you or your team reviewed in preparing  
15 your report? I'm sorry, I didn't catch that answer.

16 A. No.

17 (Exhibit 4 was marked for identification.)

18 Q. (BY MS. SHEN) I'm going to come back to  
19 Exhibit 3, your report, so if you could just keep that  
20 document open but for the moment let's move on and mark  
21 as Cowan Exhibit 4 Exhibit 3 to your report, Dr. Cowan,  
22 which is your sources list. Let me know when you have  
23 that pulled up.

24 A. I have it. Thank you.

25 Q. So this document is titled "Materials Relied

1 On." Were there any other documents that you or your  
2 team reviewed which are not disclosed in this Exhibit 4?

3 A. Not that I'm aware of.

4 Q. Looking under the "Depositions" heading in your  
5 sources list, you reference the deposition of Edward  
6 Lincoln, the deposition of Nicholas Bergeron and the  
7 deposition of Nicholas Quattrociocchi. Were you  
8 provided any other deposition transcripts?

9 A. I don't believe so, no.

10 Q. Were you aware that a deposition of an RIT  
11 corporate witness was taken?

12 A. Umm.

13 Q. I'm sorry, that answer was a little garbled.

14 A. That was because I said umm. That was just a  
15 stop. I don't think I knew it before I read the --  
16 before I wrote my report. I believe I became aware of  
17 it afterwards but I've never seen it.

18 Q. After you finished writing your report did you  
19 ask for a copy of that deposition transcript of RIT's  
20 corporate witness?

21 A. No.

22 Q. Why not?

23 A. My analysis is pretty much based on the  
24 published materials from RIT. It doesn't -- I don't  
25 find in any of these cases reading depositions to be

1 very helpful with respect to providing a basic  
2 calculation for class certification.

3 Q. And why is that?

4 A. Sorry, why is it that I don't find it very  
5 helpful?

6 Q. Correct, yes.

7 A. Well, it's a very straightforward calculation.  
8 There is a published charge to students. There is a  
9 published rate for online classes. There is a timing  
10 component with respect to when the university closed  
11 down. Those are -- and typically we don't have  
12 information for fees like we did in here. So there  
13 isn't a whole lot more than that that I need for doing a  
14 basic calculation for the purpose of a class  
15 certification.

16 Q. The three deposition transcripts that you  
17 reviewed, did you review the exhibits that were shown  
18 during those depositions?

19 A. I didn't but one of my staff might have.

20 Q. Looking back at Exhibit 4 under the heading  
21 "Websites Cited," when, approximately, did you or your  
22 team visit the websites that are listed there?

23 A. Somewhere in that two-week time period I  
24 described earlier.

25 Q. So that would be April of 2022?

1 A. Yes.

2 Q. And is that the same for the National Center of  
3 Education Statistics website?

4 A. Yes.

5 Q. Did your team do any capture or screen shotting  
6 of the NCES information that you reviewed and relied on?

7 A. I don't believe so.

8 Q. And what information specifically did you rely  
9 on from the National Center of Education Statistics?

10 A. In my report I state that I rely on information  
11 from NCES for knowing the number of -- of students of  
12 different types who attended RIT undergraduate.

13 Q. Is there any other information that you relied  
14 on from the NCES website?

15 A. No.

16 (Exhibit 5 was marked for identification.)

17 Q. (BY MS. SHEN) Let's mark as Cowan Exhibit 5  
18 the document that is titled "NCES-RIT Page." Dr. Cowan,  
19 let me know when you have that up on your screen.

20 A. I have it up.

21 Q. So I'll represent that this capture of the NCES  
22 website was taken yesterday at 7:08 p.m. as shown on the  
23 date and timestamp on the upper left-hand corner and I  
24 know that this information -- this page includes a lot  
25 of information about the 2020 to 2021 academic year but,



1 that was provided to you to help prepare your report,  
2 correct?

3 A. Excuse me, I need to look at something. Just a  
4 minute. Yes.

5 Q. And what was it that you were just looking at,  
6 Dr. Cowan?

7 A. Materials relied on.

8 Q. Turning to it's page 4 of Exhibit 7, it's got a  
9 Bates stamp of RIT0001264, that is the -- those are the  
10 data points that you've relied on, correct, in  
11 calculating Mr. Quattrociochi's damages under your  
12 model?

13 A. I believe so, yes.

14 Q. And do you see in -- on this page there is a --  
15 there's a line item for scholarships and grants and  
16 Mr. Quattrociochi received \$2,000 in an RIT grant  
17 during the spring 2020 semester, correct?

18 A. Yes.

19 Q. And that is a data point that you relied on in  
20 your analysis, correct?

21 A. I believe so, yes.

22 Q. You did -- if I'm understanding your testimony  
23 correctly, you did not receive information about  
24 Mr. Bergeron's scholarships or financial aid, correct?

25 A. Not that I know of, no.

1 Q. And you did not personally review  
2 Mr. Bergeron -- the deposition exhibits to --  
3 Mr. Bergeron's deposition exhibits to see if there was  
4 any information in there about his financial aid,  
5 correct?

6 A. I did not.

7 Q. Did you have any -- did you ever ask anybody  
8 from your team if they had reviewed Mr. Bergeron's  
9 deposition exhibits to see if there was information  
10 about his financial aid and scholarships?

11 A. No.

12 Q. Let's go back to Cowan Exhibit 3 which is your  
13 report, Dr. Cowan, and if you could turn to page 2 of  
14 your report, paragraph 4. Let me know when you're  
15 there.

16 A. I'm there.

17 Q. The first sentence of paragraph 4 says, "At  
18 this point detailed information has been produced only  
19 with respect to one of the Plaintiff representatives,  
20 Mr. Quattrociochi..." -- and then you say in  
21 parentheses "(the 'Lead Plaintiff')." "

22 What do you mean by "detailed information"?

23 A. Well, the detailed information would be the  
24 printouts that we were just reviewing with respect to  
25 what tuition was paid, what specific fees were paid, how

1 much the fees were, the scholarship information, what  
2 type of scholarship it was. Those were all items that  
3 you just showed me on Mr. Quattro -- Quattrociocchi's  
4 description.

5 Q. And when you say "produced" in this sentence,  
6 what did you mean by that?

7 A. Well, to me. I meant produced to me.

8 Q. All right. The second sentence of that same  
9 paragraph 4 says, "Detailed information similar to that  
10 provided for the Lead Plaintiff has not been produced  
11 for other class members, including any information on  
12 fees."

13 What did you mean by "any information on  
14 fees"?

15 A. Pretty much what it says, any information on  
16 fees. I only have information for Mr. Quattrociocchi.  
17 I don't have it for other people who are in the class  
18 who are not named plaintiffs. I don't have any detailed  
19 information for any of them.

20 Q. And what -- what other information are you --  
21 would you need on the fees in order to complete your  
22 analysis?

23 A. Well, my analysis to date is -- is complete,  
24 however, what the next sentence says is my understanding  
25 is that if the class is certified, information about

1 tuition, fees and so on will be made available so that I  
2 can calculate damages on a class-member-by-class-member  
3 basis. I can't do that right now.

4 Q. I understand what you're saying about  
5 calculating damages on a class member basis but -- and  
6 I'm sorry if I was unclear but my question is  
7 specifically geared towards the fees. What information  
8 do you need with respect to fees in order to conduct the  
9 damages analysis?

10 A. Well, different people have different fees so I  
11 need to know what fees they paid, whether they took a  
12 lab or not and paid a lab fee. I also need to know some  
13 information about fees charged with respect to whether  
14 or not the student had access to a particular type of  
15 activity. So, for example, if RIT has on-campus  
16 healthcare and despite the school being closed down  
17 healthcare was still available to all of the students,  
18 then I wouldn't consider that to be lost to the student,  
19 they had healthcare available the whole time. So if  
20 they paid a fee, they got what they paid for. So I need  
21 some information about what was paid, what it was paid  
22 for and I also need to know whether or not certain  
23 things were available during the time that the  
24 university was closed.

25 Q. So would that be the same with respect to the

1 student activity fees; that, for example, if students  
2 continued to have access to the types of programs or  
3 activities that were intended to be covered by the  
4 student-activity fee that your -- your conclusion would  
5 be that there would be no refund due?

6 A. I can only say that it might be. That  
7 speculation on my part because I don't know right now  
8 what activities were covered with that fee.

9 Q. And how would you -- how did you typically  
10 obtain that information? So it was just -- let's go  
11 back to your -- your student health fee example. You  
12 mentioned that you would need information about whether  
13 students continued to have access to healthcare  
14 services. What kind of information would you need to --  
15 to answer that question?

16 A. I think the only thing I would need to know is  
17 whether or not health clinics were open or  
18 alternative -- or was some alternative provided like  
19 access -- paid access to urgent care, for example.

20 Q. And that information was not provided to you by  
21 the plaintiffs as you prepared your report, correct?

22 A. It was not.

23 Q. Did you or anybody on your team look for that  
24 information in publicly-available sources?

25 A. Not that I'm aware of.

1           Q.   What about -- so let's talk specifically about  
2   the student-activity fee.  What kind of information  
3   would you need in order to conduct an analysis of  
4   whether the student-activity fee -- whether students  
5   should be entitled to a refund of any portion of the  
6   student-activity fee?

7           A.   Well, since I don't know what student-activity  
8   fees actually cover I'd have to find out what they cover  
9   and then once I found out what they cover I have to find  
10   out whether or not they were available to the student.

11          Q.   Did plaintiffs provide you any information  
12   about what activities the student-activity fee was meant  
13   to cover?

14          A.   Not that I know of.

15          Q.   Did you or anybody on your team look for  
16   publicly-available information as to what activities  
17   those student-activity fees were going to cover?

18          A.   No.

19          Q.   And am I correct to assume that your analysis  
20   for any partial refunds of lab fees would be similar in  
21   that you would need to know what the lab fee was  
22   intended to cover and sort of what -- I guess whether  
23   those -- those services or activities continued after  
24   RIT's transition to distance learning?

25          A.   Broadly speaking, yes.

1 Q. Were you provided any of that information by  
2 plaintiffs? I'm sorry, your answer cut out.

3 A. No.

4 Q. Did you or anybody on your team look for  
5 publicly-available information about what the -- what  
6 any lab fees were meant to cover?

7 A. No.

8 Q. Did you or anybody on your team look for  
9 publicly-available information as to what classes at RIT  
10 actually charged lab fees or if any lab fees were  
11 actually charged?

12 A. No.

13 Q. Did anybody from -- did plaintiffs provide you  
14 any information about what classes actually charged lab  
15 fees or whether lab fees are actually charged by RIT?

16 A. No.

17 Q. Turning back to Cowan Exhibit 3, so looking  
18 back at your report I'm still at paragraph 4 -- and you  
19 kind of alluded to this a little bit earlier -- the  
20 third sentence in paragraph 4 says, "My understanding is  
21 that, should the class be certified, this information  
22 will be made available in production as part of  
23 discovery."

24 How did you come to that understanding?

25 A. The attorneys told me that.

1 Q. And just to be clear, did the -- were you told  
2 that there would be a second phase of discovery after  
3 you submitted your report?

4 A. I don't think it was word -- worded quite that  
5 way. I was just told that we would obtain (audio  
6 distortion) class members.

7 Q. Dr. Cowan, I apologize, I didn't mean to cut  
8 you off but the second half of what you said got cut  
9 off.

10 A. No, I'm sorry. What I said was what I was told  
11 was that information would be provided for the other  
12 class members that had been -- that would be identified  
13 in this case. I wasn't told whether or not there was --  
14 I think you're asking me a legal question about whether  
15 or not discovery would continue and I can't answer that  
16 one.

17 Q. In the normal course of your engagements as an  
18 expert do you or anybody under -- does anybody on your  
19 team ever look at the case docket or look at  
20 documents -- you know, like pleadings or anything like  
21 that -- orders, decisions -- filed in a case?

22 A. Depends on the case. Sometimes.

23 Q. In this case did you or anybody on your team  
24 independently review the docket?

25 A. No.



1 Q. Turning back to Exhibit 3 of your report, I'm  
2 looking at paragraph 5, the last sentence. You say, "I  
3 do not offer similar calculations for Graduate Students  
4 or with respect to fees because I do not have the  
5 necessary information to provide such calculations."

6 Here what is the necessary information that  
7 you would need to provide those calculations?

8 A. My understanding was that there would be  
9 different tuition rates for graduate students in  
10 different graduate programs. I wasn't aware of whether  
11 or not graduate students would be charged the same fees  
12 or other fees so I just don't have enough information to  
13 be able to safely say that I can do a calculation -- an  
14 actual calculation for graduate students as opposed to  
15 just saying this is the framework that I propose to use.

16 Q. Your team was able to pull from  
17 publicly-available sources information about the  
18 undergraduate tuition and fees charged, correct?

19 A. Yes.

20 Q. Did anybody on your team or did you look for  
21 publicly-available information as to the graduate  
22 tuition and fees charged?

23 A. I don't know if they did or not.

24 Q. Did anybody -- did you -- okay, sorry. Take  
25 that back. Did you yourself look for publicly-available

1 information about the graduate tuition and fees charged?

2 A. No.

3 Q. Did you personally look for any  
4 publicly-available information about the types and  
5 amounts of fees charged to the various RIT student body?

6 A. Could you define "student body" because it's  
7 not in my report.

8 Q. Yeah, sorry, that question was -- was a bit  
9 garbled. Let me maybe just make it a little bit  
10 simpler.

11 Did you personally look for any  
12 publicly-available information about the fees that RIT  
13 charges its students?

14 A. No.

15 Q. Do you know if anybody on your team looked for  
16 publicly-available information about the fees charged by  
17 RIT to its students?

18 A. You've been using "fees" and "tuition" sort of  
19 interchangeably and sometimes you use the words "tuition  
20 fees" so I'm -- I'm going to ask that -- I -- I just  
21 want to know, are you asking me about tuition or are you  
22 asking me about fees?

23 Q. Sorry, yeah, I am asking you about fees and I  
24 will -- I will try to be more clear as to whether I'm  
25 talking about tuition or talking about fees. So let me

1 maybe just re ask my question which is whether -- so  
2 let's maybe take that back. Did you personally look for  
3 publicly-available information about fees that RIT  
4 charges to its students?

5 A. No.

6 Q. Do you know if anybody on your team looked for  
7 publicly-available information about the fees that RIT  
8 charges to its students?

9 A. Yes.

10 Q. And did anybody on your team look for  
11 publicly-available information about the fees that RIT  
12 charges to its students?

13 A. Yes, they found fee information.

14 Q. So what type of fee information did they find?

15 A. Well, for example, you in showing me that  
16 listing knew -- we knew that there were activity fees,  
17 we knew that there were health fees and I believe we  
18 knew that there were lab fees. So we knew that there --  
19 there were different types of fees. The materials we  
20 were -- that we reviewed were quite clear on the fact  
21 that fees were charged and I believe we even knew kind  
22 of generally what fees were charged.

23 Q. Okay. Aside from the student-activity fee, the  
24 student health fee and the lab fee, are there any other  
25 fees that you understand to be at issue in this

1 litigation?

2 A. I -- I don't know the -- sorry. I don't know  
3 the answer to your question because I'm not aware that  
4 I've exhausted the list of fees. You asked me whether  
5 or not we had researched for fees and my answer was yes  
6 but I don't think we included all the possible fees and  
7 I may not even know all of the possible fees. I  
8 wouldn't know that until I saw that information for all  
9 the students as opposed to just Mr. Quattrociochi.

10 Q. Do you -- were you given any direction as to --  
11 as to which type of fees the plaintiffs are seeking in  
12 this case on behalf of the putative class?

13 A. No.

14 Q. In the -- in your review of the types of fees  
15 that were charged did you find information of the --  
16 about the price of each fee?

17 A. Well, price actually means something different.  
18 I believe you're asking me about whether I know what the  
19 charges were that were associated with the fees.

20 Q. Yes, that's -- that's correct.

21 A. Okay. I found some information, yes.

22 Q. And which fees were you able -- for which fees  
23 were you able to find information about the amount  
24 charged?

25 A. As I recall, there was some information about

1 each of the fees we discussed before: -- the student  
2 fee, lab fee, health fee -- because there's a  
3 description of what it costs to go to the university.

4 Q. You -- you mentioned a minute ago that you  
5 understood price to be something different than the  
6 amounts charged. Could you explain what you meant by  
7 that?

8 A. In economics I think of a price as being  
9 something that you either voluntarily purchase or you  
10 don't and you base your decision on price. That's the  
11 basis for supply-and-demand curves. In this case you  
12 don't get a choice, you're just charged a fee.

13 Q. When you say you don't get a choice here, what  
14 do you mean by that?

15 A. Everybody has to pay a student-activity fee,  
16 everybody has to pay a health fee and if you take a  
17 course that requires a lab, you have to pay the lab fee.

18 Q. Okay. But you could, for example, choose to  
19 take a different course if you didn't want to pay the  
20 lab fee, correct?

21 A. Well, yeah, but now you're getting into  
22 questions about how individual students were making  
23 decisions and prior to them taking a class. My entire  
24 analysis is based only on what classes they actually did  
25 take.

1 that was ongoing but I didn't get details.

2 Q. Got it. And were you told that by your  
3 counsel?

4 A. Yes.

5 Q. Did you do any independent review of the docket  
6 or any information in this case to confirm whether there  
7 is a pending discovery dispute?

8 A. I've seen dockets in the past and I don't  
9 recall ever seeing anything about the docket including  
10 statements about a dispute so I don't think that would  
11 be very useful.

12 And No. 2 is, you know, if the attorneys  
13 tell me there's a dispute, then I have to take their  
14 word for it, you know. I don't have any way to  
15 independently assess whether there's a discovery dispute  
16 or not.

17 Q. I think you -- I just want to make sure I'm  
18 correctly understanding this. You did not -- did you  
19 get any information about what type of discovery dispute  
20 or what it might cover from plaintiffs or their counsel?

21 A. No.

22 Q. Did you ask for any details about the purported  
23 discovery dispute?

24 A. No.

25 Q. Could you turn to page 10 of your report, so

1 Cowan Deposition Exhibit 3. Let me know when you're  
2 there.

3 A. I'm there. Thank you.

4 Q. So Table 1 here is titled "Calculation of  
5 Tuition Damages for the Lead Plaintiff:  
6 Mr. Quattrociochi." Correct?

7 A. Yes.

8 Q. Okay. And Table 1 is -- is your calculation of  
9 the tuition that you assert is due to be refunded to  
10 Mr. Quattrociochi, correct?

11 A. Correct. Tuition, yes.

12 Q. There is no analysis of what fees you -- you  
13 would assert are due to be refunded to  
14 Mr. Quattrociochi in this table, correct?

15 A. That's correct.

16 Q. And you did not do any analysis of what fees  
17 might arguably have to be refunded to  
18 Mr. Quattrociochi, correct?

19 A. I could not so I didn't.

20 Q. Could you explain the methodology and formulas  
21 that you applied in your analysis here?

22 A. Yes. Okay, so the tuition fees charged to  
23 Mr. Quattrociochi was the -- in the first line -- so --  
24 that he contracted for is what he paid in tuition. The  
25 second line is for the same hours using the rate from

1 RIT online we've computed a rate what would be charged  
2 for these classes if everything was taken through RIT  
3 online. So that's the \$13,442. The difference between  
4 that -- so there's a 50 percent -- we said that the time  
5 period for the in-person classes versus the time period  
6 for the online classes split approximately fifty-fifty  
7 so if you take the value contracted for and divide it by  
8 two to get the 50 percent, the value contracted for and  
9 received -- because that would be the first half of the  
10 semester -- was \$11,311. In the second half of the term  
11 it would be value received based on the online pricing  
12 for total hours taken so that would be half of the  
13 \$13,442 which came out to the \$6,721. So the overall  
14 value received would be the value of the first half of  
15 the semester plus the value of the second half so it's  
16 the sum of the \$11,000 plus the 6.7 thousand dollars to  
17 get you to \$18,000. So what we are arguing is in terms  
18 of the pricing for the regular tuition and then for the  
19 pricing for the online cases what he -- what he received  
20 was \$18,000 in terms of the value received using the  
21 but-for pricing. Now we said but he got subsidies from  
22 RIT that applied to the tuition so we're going to  
23 subtract \$2,000 and that makes it \$16,000 which is what  
24 he received. And then the amount that he actually paid  
25 was the \$22,000 minus the \$2,000 because of the RIT



1 subsidies so that makes it \$20,000 -- it's \$20,622. If  
2 I take the difference between the amount paid and not  
3 subsidized versus the -- the payment he would have made  
4 in the but-for analysis which is \$16,322 that difference  
5 is \$4,590 which is the amount that we say are the  
6 damages for Mr. Quattrociochi that are based on his  
7 relationship with RIT and then we calculated prejudgment  
8 interest and that came out to be \$863 so if I sum those  
9 two up, I get the total damages plus the prejudgment  
10 interest of \$5,450, approximately.

11 Q. Let's -- let's kind of just break this down a  
12 bit. So the top-line number in your Table 1 is titled  
13 the value contracted for. How do you define "value"?

14 A. I didn't define "value." What I did was I took  
15 whatever the tuition charge was and let the university  
16 define value. They thought that the educational  
17 experience for Mr. Quattrociochi was \$20,622 by being  
18 on the campus and taking the courses, charging that  
19 tuition which Mr. Quattrociochi paid. So to me the  
20 value is whatever it was that was charged that both  
21 parties agreed to.

22 Q. So I want to make sure I'm understanding that  
23 your top-line number here, what you've -- what you've  
24 named the value contracted for, that's the published  
25 tuition rate for Mr. Quattrociochi, correct?

1 A. Yes.

2 Q. Why not use the terminology "tuition rate" or  
3 "published tuition rate"?

4 A. Oh, I think we took that phrase from the  
5 Complaint.

6 Q. Did you consider anything else in making this  
7 decision to use the phrase "value contracted for"?

8 A. So under the rule of parallel construction  
9 later on I'm going to talk about in lines 3 and 4 and 5  
10 the value that was received based on RIT charging the  
11 tuition rate, you know, that is for one half to  
12 determine the value received based on the RIT online  
13 charges for the same classes or classes in general as  
14 the second part and you sum those two and you get value  
15 received. So the choice in the word "value" simply has  
16 to do with all of the pricing that was set by RIT for  
17 either in-person or online classes. I'm not making a  
18 judgment about whether -- what type of value it is or  
19 what the value is to individuals. I'm just looking at  
20 this as a arm's-length transaction where RIT said here's  
21 the tuition rate. Mr. Quattrociochi -- Quattrociochi  
22 agreed to that and paid it. It's kind of like buying a  
23 car.

24 Q. Does price always equal value?

25 A. So I would say no but the value is -- the

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11 That a copy of this certificate was served on all  
12 parties shown herein on \_\_\_\_\_ and filed  
13 with the Clerk pursuant to Rule 203.3.

14 I further certify that I am neither counsel for,  
15 related to, nor employed by any of the parties or  
16 attorneys in the action in which this proceeding was  
17 taken, and further that I am not financially or  
18 otherwise interested in the outcome of the action.

19 Certified to by me this 29th day of July, 2022.

20

21

22 Wendy Schreiber  
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Expiration Date: 05/30/24

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